

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA)

DOCKET NO. 3:07-cr-79-W

v.)

(2) SHARU BEY, a/k/a “Jeffrey Lewis”)

(5) EDGAR ORTIZ BARRAZA,)

a/k/a “Edgar Yunven Barraza”)

(6) RUBEN ORTIZ BARRAZA)

a/k/a “Ruben Barraza-Ortiz”)

(7) RUBEN NOYOLA GARCIA)

(8) JUAN C. GARZA)

**GOVERNMENT’S TRIAL
MEMORANDUM**

Now comes the United States of America, by and through Gretchen C.F. Shappert, United States Attorney for the Western District of North Carolina, and submits this memorandum to advise the Court regarding the Government’s case-in-chief.¹

Starting in or around 1999, Defendant Sharu Bey (also known as “Jeffrey Lewis” and “Tre”) conspired with Patrick Schwenke and Juan Carlos Sanchez-Solorzano to distribute marijuana. Defendant Bey received approximately 80 to 500 pounds of marijuana as often as every week from Schwenke and Sanchez-Solorzano. In total, he received well in excess of 1,000 kilograms of marijuana over the life of the conspiracy.

For various reasons – including business disputes among the co-conspirators, as well as Schwenke’s detention – the conspiracy did not receive a regular supply of marijuana for several months. When the co-conspirators started to receive marijuana again in 2007, Schwenke and Sanchez-Solorzano were able to meet demand through a new source of marijuana; that is,

¹ This memorandum does not include all evidence that the Government will present at trial; rather, it tries to provide an overview of the Government’s case-in-chief.

Defendants Ruben Ortiz Barraza, Ruben Noyola Garcia, and Juan Garza (the “Texas Defendants”), as well as fugitive co-defendant Edgar Barraza.

On March 17, 2007, Defendant Garcia made three calls to a confidential informant (CI), who was acting as a driver for the Texas Defendants,² discussing when they would start working, that the drugs had already arrived in Texas, and that Garcia would take care of the truck’s plates.

On March 19, 2007, the Texas Defendants loaded a tractor trailer with approximately 2,100 pounds of marijuana, Barraza loaded the “cover load” using a forklift, and Garcia put new tags on the truck.³ Immediately after the tractor trailer left the warehouse, which was rented by Defendant Garcia,⁴ the DEA took possession of the marijuana and had it delivered to Charlotte while the CI drove here. Shortly before the CI arrived in Charlotte, the DEA returned the marijuana to the tractor trailer so the CI could complete the controlled delivery, and they continued surveillance.

On March 22, 2007, Defendant Barraza and the CI spoke by phone. Later that day, Schwenke and Sanchez-Solorzano received the marijuana shipment at a warehouse in Charlotte. Sanchez-Solorzano and two other co-conspirators purchases cardboard boxes at Home Depot. Sanchez-Solorzano delivered approximately 50 pounds of marijuana in two of the Home Depot boxes to Defendant Bey, who was in his rental car, at which time they were arrested. Search incident to that arrest, the DEA seized a .45 caliber Glock handgun, which was registered to

² The CI-driver had been cooperating with law enforcement since he was stopped on January 16, 2007, with \$1,249,905 of U.S. currency that he was bringing back through Mississippi for the Defendants. As discussed in a separately filed notice under F.R.E. 404(b), the Government intends to present brief testimony by the CI about that seizure, as well as recorded conversations between the CI and the Texas Defendants on January 16 and February 6, 2007, leading up to the delivery – in the same tractor trailer – of the marijuana in this case.

³ This activity was captured on video, which will be presented at trial, with English and Spanish transcripts, along with still images.

⁴ The lessor had regularly seen all three of the Texas Defendants together at the warehouse on various occasions.

Bey's wife,⁵ within reach of where Defendant Bey was seated.⁶ Among Bey's papers was a business card for Hyatt's Gun Shop in Charlotte. Later, after being advised of his Miranda rights and waiving the same, Defendant Bey stated that he was responsible for the gun; he admitted conspiring to distribute marijuana with Schwenke, Sanchez-Solorzano, "Marcel" and "Tony"; and he discussed distributing kilogram-quantities of cocaine for another dealer.

As discussed in our pending motion pursuant to F.R.E. 404(b) (Docket Document 133), we intend to prove Defendant Bey's knowing possession of the firearm, and absence of accident or mistake, in part through his knowing possession of a firearm in New York on February 26, 2007. Also in that motion, we intend to present evidence of Defendant Bey's intent to distribute the marijuana with the certified records of his prior conviction for possession with intent to distribute drugs, as well as through his admissions to law enforcement. We note that, to date, Defendant Bey has refused to stipulate, per *Old Chief*, to his prior felony convictions, which are elements of the 18 U.S.C. 922(g) offense charged in Count Four of the Third Superseding Bill of Indictment.

When the DEA searched the Charlotte warehouse, they recovered informal notes of recent drug transactions, including nicknames of recipients, dates, prices and drug quantities. In some of those notes, they noted marijuana that was sold to "Tre," who is Defendant Bey.

⁵ At his initial detention hearing, Defendant Bey presented Beverly Davis, with whom he was stopped on March 22nd, as his wife. However, he is legally married to another woman, Myra Ella Link, to whom the firearm is registered. Defendant Bey claimed, however, that he had been estranged from Ms. Link for years and that he had since married Ms. Davis through a Moorish nation ceremony.

⁶ As discussed in our motion pursuant to F.R.E. 404(b), we intend to prove Defendant Bey's knowing possession of the firearm, and absence of accident or mistake, in part through his knowing possession of a firearm in New York on February 26, 2007. On February 26th, he was in the same car that he was driving when arrested on March 22nd.

Also on or about March 22, 2007, Defendants Garcia and Garza went to a Walmart store in Texas and sent (in Defendant Garza's name) a \$942.70 wire transfer to the CI.⁷

On June 13, 2007, DEA agents executed arrest warrants in this case. Defendant Garcia was wearing a Rolex watch and had \$1,700 in cash on his person. His cell phonebook contained the numbers for Defendants Barraza and Garza and for the CI. Separately, law enforcement located Defendant Barraza and Defendant Garza in Barraza's H2 Hummer. Defendant Barraza had the keys to the Hummer, \$1,024 in cash, and five cell phones at the time of his arrest. One of those phones had been used to call the CI. At the time of Defendant Garza's arrest, he was wearing the same hat that he wore when he loaded the marijuana onto the tractor trailer and when he wired the funds to the CI.

Respectfully submitted, this 7th day of February 2008.

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY

/s/ Steven R. Kaufman
Steven R. Kaufman
Assistant United States Attorney
Bar: District of Columbia (number 462982)
227 West Trade Street, Suite 1700
Charlotte, NC 28202
(704) 338-3117 (phone)
(704) 227-0254 (facsimile)
Steven.Kaufman@usdoj.gov

⁷ The Government will be presenting the videotape from the Walmart, as well as the the CI's receipt for the funds.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February 2008, the foregoing was duly served upon the defendant herein, by electronic means, to:

James Edward Quander, Jr.
301 N. Main Street
Suite 2020
Winston-Salem, NC 27101
(336) 725-6600
(336) 725-5103 (fax)
jeq8@nextel.blackberry.net
representing Sharu Bey (2)

Denzil Horace Forrester
3325 Washburn Avenue, Suite 103
P O Box 32511
Charlotte, NC 28232
704/632-9992
704/632-9969 (fax)
denzilfesq@aol.com
representing Ruben Ortiz Barraza (6)

Haakon Thorsen
1235-E East Blvd., #239
Charlotte, NC 28203
704 332-7334
704 332-7335 (fax)
haakon@mindspring.com
representing Ruben Noyola Garcia (7)

Julia Grace Mimms
Law Office of Julia G. Mimms, P.A.
1001 Elizabeth Ave., Suite 1A
Charlotte, NC 28204
704/333-1301
704/333-1290 (fax)
jgmassistant@bellsouth.net
representing Juan C. Garza (8)

/s/ Steven R. Kaufman
Steven R. Kaufman
Assistant United States Attorney